

Rec 3/12/09
Hes. Luntz

March 9, 2009

To: The Joint Judiciary Committee of the Connecticut Legislature

Re: Public Hearing on Raised Bill #1056: An Act Concerning Free Speech in Public Educational Institutions

From: Ethel Silver Sorokin Esq. Co-founder, former officer, director and former acting executive director of The Center for First Amendment Rights (CFAR) for 15 years, now merged into the educational arm of the ACLU, its Foundation.

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Dear Senator McDonald and Representative Lawlor and the Senators and Representatives, Members of the Joint Judiciary Committee of Both Houses of the Connecticut Legislature:

I attended the public hearing on the above bill on Friday March 6th from 11:15 to 3:15. I was forced to leave before my turn to speak. I file these comments with you and the members of the committee in lieu of speaking.

I endorse the comments of Chris Powell, managing editor of the Journal Inquirer filed with you and those of Patrick Doyle, of the ACLU, and I am in agreement with the positions taken by both. I add a few specific items:

1. **Constitutional Standards.** Someone at the hearing asked if the Raised Bill meets the constitutional requirements of the law. **It absolutely does.** It includes current constitutional standards as previously established by the US Supreme Court. They have been developed over half a century. I would be glad to supply a one page brief of these materials and their relation to the raised bill if that would be helpful to you.
2. **History of Bill.** The bill first arose out of this very committee over a decade ago when the then chair, Senator Richard Tulisano, advocated the need for such a bill and urged students to take a hand in protecting their own rights. Many more issues have arisen as students have become more involved in various forms of freedom of expression—from writing plays to political action. Seven or eight states already have such bills. Connecticut needs this bill now: to avoid waste of educational time, energy and funds and to insure the increasing opportunity for students to use and exercise their First Amendment rights in public institutions. Action is necessary now.
3. **Senator McDonald's Question.** Senator McDonald asked a hypothetical about an 18 year old high school senior running for the Board of Education claiming the Superintendent was incompetent. Clearly the student's political position is protected by the First Amendment. Indeed, it enjoys the highest protection as an effort to maintain high quality government. The speaker agreed to that interpretation but said that the student should use his rights outside of school, not inside. Yet the Supreme Court has decreed that First Amendment rights do not terminate at the "school house gate." Other students may be qualified to vote.

It would be educational to develop discussion and thinking skills of students if the 18 year old's position were discussed with his fellow students who disagreed or agreed with him. A teacher might want to lead or monitor the student discussion.

I know of a case in a suburban Connecticut town in which the principal did not let an 18 year old senior running for the Board of Education wear or distribute on school premises to fellow students campaign pins with his name and the job he sought printed on it. The principal viewed it as too "controversial".

The principal's position was illegal and painfully sort-sighted, halting the most important part of First Amendment education and understanding, exercising and discussing one's political rights. Yet sometimes, the idea of litigation comes too late to pursue or the family does not want to engage in litigation with the town. It is better for the school to comply with the law at the outset. This bill assures that result.

4. Committee Member's Question on Elementary School. One member asked whether the raised bill covers elementary schools. It does and it says so in the first paragraph of the Bill. If any of you happened to see the children's newspaper insert in the *Journal Inquirer* on March 1st, you would have found a very informative piece on newspapers addressed to elementary school children including the First Amendment. Education cannot start too young. I mailed my copy to my 3rd grade grand-daughter.

CFAR ran programs not only for citizens, college and high school students but also for middle school students and if it had continued independently would have initiated programs for elementary students in their schools. The US Supreme Court decided in favor of Jehovah's Witnesses' children refusing to pledge allegiance in *West Virginia v. Barnette*. This case involved elementary school children.

The United States Supreme Court accords the highest protection to the youngest students and this can be seen especially in over-reaching by local governments on religious freedom issues.

5. Students Recognize their need for First Amendment education and rights. CFAR sponsored an annual high school contest in Connecticut. As many as two hundred and twenty five students from all over the state, and occasionally from out of state—if they attended Connecticut high schools—entered essays in the contest each year. One year three students from one suburban school submitted merely a list of complaints of school restrictions on student freedom of expression. CFAR gathered each of their issues into one list and sent it to the social studies chair at the school and offered to present a program of nine weeks with leading First Amendment experts on the issues. CFAR was invited to present to one teacher's government class of about 24 students.

The students listened; they talked to their peers—in the hallways, at lunch, to and from school. One student not in the class started a petition to remove the principal; students, faculty and parents signed it. Later the principal resigned. At the last class the students were asked: "do you have any free expression issue you wish to present to the deputy superintendents who will be attending our next class?". Every student raised a hand. Four issues were decided on and these were quickly rectified by the panel of superintendents who attended. There was no "controversy", no disruption

of education”—the restrictions were not appropriate and were summarily overturned.

Interestingly, the student who covered that class for the school newspaper initiated a student grievance procedure when he was next elected as Student Council President. It was a huge success. Students were using their freedoms and rights in responsible ways in an effective high performing town hall with a panel of two students, one member of the Board of Education, the principal or his designee, a faculty person and a parent.. The panel ruled on most of the issues right there and deferred only a few for further investigation or decision. The students presenting the grievances spoke thoughtfully and well.

6. **Trumbull's Censorship of Student Written Play Concerning Iraq.** The Drama Class at Trumbull High wrote a play about the Iraq war, culling the facts, some of the language and the ideas and concerns from writings of soldiers. The students assembled it into a play and acted in it. The principal with the backing of the superintendent banned it from being played in the school or in Trumbull. It was shown first in Fairfield and then Off Broadway where a consultant for CFAR saw it. She gave it a very positive review as did the New York Times. CFAR's consultant contacted the Principal and obtained permission to allow the students to present a segment of their play at a CFAR High School Conference. It was a moving and compelling segment. The play should not have been censored in its own school or home town..
7. **Reporter's Article Censored by Principal.** A school newspaper article factually describing what elite academic students do on the week-end after exams—get so drunk they need hospitalization—was censored and deleted from the newspaper. It was well written but described a very painful problem which should have been exposed, distributed to parents, faculty, administrators and students. Community action was needed, not censorship..
8. **Current Need For Bill.** The pattern of trying to discipline, censor, suspend or expel students from schools because of their freedom of expression, sometimes controversial, has increased and is most disheartening. Students are citizens. They are entitled to express their views verbally, in debates, in newspapers, in literary magazines and on school platforms. Part of the responsibility of the school is not only to have the students learn the elements of the First Amendment but in the words of Jefferson to learn how to and practice “exercising their freedoms”. In their use of their free expression and communication they often create useful solutions to their own problems and can be helpful to the community and also can be guided by the community. Raised Bill 1056 is needed now to rectify these problems in Connecticut.

Respectfully submitted,

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